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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Kentaro Toyama

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7973

27662

7590

07/14/2005

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EXAMINER

VILLECCO, JOHN M

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/682,755		TOYAMA ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	John M. Villecco		2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) 19-40 and 46-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18 and 41-44 is/are rejected.
- 7) ☒ Claim(s) 17 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/20/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-18 and 41-45 in the reply filed on March 29, 2005 is acknowledged. Claims 19-40 and 46-54 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

- On page 14, paragraph 0052 of the applicant's specification, the camera and sequence of images are given the reference numbers 163 and 164, respectively.

It is clear from Figure 1 that the camera and the sequence of images are given the referent numbers 192 and 193, respectively.

Appropriate correction is required.

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 208. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to

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avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 13 recites the limitation "the process action of annotating the image with a server-provided user rating" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1-4, 18, 41, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Svendsen et al. (U.S. Patent No. 6,757,684).**

10. Regarding *claim 1*, Svendsen discloses a network-based photosharing system capable of peer-to-peer image transfer through a central site. More specifically, Svendsen discloses a method of sharing images over a network. The system includes a hosting client (peer node, 16) which receives images from a camera or the like (col. 3, line 38). Although Svendsen does not explicitly disclose inputting images to the peer node, it is inherent that the images captured by the camera would be inputted to the peer node in some manner. Additionally, Svendsen discloses that the user can annotate the images with metadata at the peer node (col. 3, lines 34-37). Clearly, all of the images stored on the peer node would comprise a local index and a local database of images. Furthermore, information on each of the images stored at the peer node is transferred by the peer daemon (34) to the peer server (14). See column 8, lines 7-59. In this manner the local images stored on the peer node (16) are synchronized with the master index stored on the peer server (14).

11. As for *claims 2 and 3*, Svendsen discloses either manually or automatically attaching metadata to each image. See column 3, lines 34-36,

12. With regard to *claim 4*, Svendsen discloses annotating the image data with a private user vocabulary. This feature is interpreted to be annotating the image with any and all user annotations.

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13. Regarding *claim 18*, Svendsen discloses the use of a change list for storing changes to the peer node (16). The change list is interpreted to be the modification log. The images that have been changed on the peer node are then updated at the peer server (14). See column 8, lines 7-29 and Figure 6A.

14. *Claim 41* is considered a more broad interpretation of claim 1. Since the rejection of claim 1 can be read on claim 41, please see the rejection of claim 1 on the preceding pages.

15. *Claim 42* is considered substantively equivalent to claim 4. Please see the discussion of claim 4 on the preceding pages.

### ***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. **Claims 5-8, 16, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (U.S. Patent No. 6,757,684) in view of Narayanaswami et al. (U.S. Patent No. 6,504,571).**

18. Regarding *claim 5*, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. However, Svendsen fails to specifically disclose that the process of annotating the image with a time is comprised of at least one of the options recited in the claim. Narayanaswami, on the other hand, discloses that it is well known in the art to associate a time with a captured image. More specifically, Narayanaswami discloses that the

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camera (100) includes a GPS receiver (114) for determining a location and a time when the image was taken. See column 5, lines 45-65. The GPS sends the geographic position as well as the Universal Time Coordinated (UTC) time and date and a local time and date to the camera for recording. By including a time at which the image is captured, the user is provided with more information when reproducing the image in order to give the image context. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to annotate the image with a time provided by the GPS system so that the user is given more information about the context of the captured image.

19. As for *claim 6*, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. However, Svendsen fails to specifically disclose that the process of annotating the image with a location is comprised of at least one of the options recited in the claim. More specifically, Narayanaswami discloses that the camera (100) includes a GPS receiver (114) for determining a location and a time when the image was taken. See column 5, lines 45-65. The GPS sends the geographic position as well as the Universal Time Coordinated (UTC) time and date and a local time and date to the camera for recording. By including a location at which the image is captured, the user is provided with more information when reproducing the image in order to give the image context. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to annotate the image with a location provided by the GPS system so that the user is given more information about the context of the captured image.

20. With regard to *claim 7*, Narayanaswami discloses that the location is provided in a latitude and longitude format. See column 5, line 58.

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21. Regarding *claim 8*, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. Additionally, Svendsen discloses the use of a flux gate magnetometer or a gyroscope to determine the orientation of the camera. However, Svendsen fails to specifically disclose that the orientation is provided in the format of yaw, pitch, and roll. Official Notice is taken as to the fact that it is well known in the art to present the orientation of a camera in the format of yaw, pitch, and roll. This format serves as a well known format for the description of the orientation of any object. Therefore, it would have been obvious to one of ordinary skill in the art to present the orientation of the camera in Svendsen in the format of yaw, pitch, and roll.

22. As for *claim 16*, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. However, Svendsen fails to specifically disclose that the process of annotating the image with an imputed location is comprised of at least one of the options recited in the claim. Narayanaswami, on the other hand, discloses that it is well known in the art to associate a time with a captured image. More specifically, Narayanaswami discloses that the camera (100) includes a GPS receiver (114) for determining a location and a time when the image was taken. See column 5, lines 45-65. The GPS sends the geographic position as well as the Universal Time Coordinated (UTC) time and date and a local time and date to the camera for recording. By including a location and time at which the image is captured, the user is provided with more information when reproducing the image in order to give the image context. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to annotate the image with a location and time provided by the GPS system so that the user is given more information about the context of the captured image.

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23. *Claim 43* is considered substantively equivalent to claim 6. Please see the discussion of claim 6 above.

24. *Claim 44* is considered substantively equivalent to claim 16. Please see the discussion of claim 16 above.

25. **Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (U.S. Patent No. 6,757,684) in view of Sheridan (U.S. Patent No. 5,760,917).**

26. Regarding *claim 9*, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. However, Svendsen fails to specifically disclose that the process of annotating a privacy level of the image comprises the action of manually annotating the image with a privacy level. Sheridan, on the other hand, discloses that it is well known in the art to manually annotate images with privacy levels. More specifically, Sheridan discloses the ability to designate an album of images with different privacy levels. See Figure 2. The privacy level of the images are manually input by the user. See column 4, line 50 to column 5, line 18. This feature enables a user to share images with whomever they wish. Therefore, it would have been obvious to annotate images with a privacy level that is manually input by the user so that the user may share their images with whomever and however they wish to.

27. As for *claim 10*, clearly if none of the boxes are checked in Figure 2, the album would not be shared with any of the third parties. Therefore, by not selecting any of the boxes in Sheridan the image would be accessible only to the user.

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28. With regard to *claim 11*, clearly if all of the boxes are checked in Figure 2, the album would be shared with all of the third parties. Therefore, by selecting all of the boxes in Sheridan the image would be accessible to all of the users.

29. **Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (U.S. Patent No. 6,757,684) in view of Yang et al. (U.S. Patent No. 6,301,586).**

30. Regarding *claim 12*, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. Svendsen however, fails to explicitly disclose that the process action of annotating the image with an image modification history comprises at least one of the options discussed in the claim. Svendsen, on the other hand, discloses that it is well known in the art to annotate an image with the time when the image was last modified. More specifically, Svendsen discloses a system for managing multimedia objects that includes a spreadsheet view for viewing a plurality of images and their associated information (metadata). See Figures 9 and 27. Some of this information includes the date and time when the image file was last modified. See column 9, "Date/Time Modified" and column 21, line 66 to column 22, line 7. This additional information provides the user with additional information that can be used to search or classify and image. Therefore, it would have been obvious to annotate the images of the system in Svendsen with the date and time the image was last modified to give the user additional information when searching or classifying and image.

31. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (U.S. Patent No. 6,757,684) in view of Shiiyama et al. (U.S. Patent No. 6,247,009).**

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32. Regarding claim 13, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. Svendsen however, fails to explicitly disclose that annotating the image with user-provided user rating comprises the process of annotating the image with an indication as to how closely the image matched a search criteria. Shiiyama, on the other hand, discloses that it is well known in the art to annotate an image at a host computer with how well the image matched a search. More specifically, a user is able to search a database using a query. Results in the form of thumbnail images are returned by the database and if the user selects one of the thumbnail images for viewing it is given a score. It is interpreted by the examiner that the score generated by selecting a thumbnail image for viewing is the annotation of the image as to how closely the image matched a search criteria. These scores are then used in future searches to determine which images are the best ones to display. See column 4, lines 1-18 and column 5, lines 25-55. By allowing the a measure of how well an given image matches a search criteria, the results returned by a search can be made more relevant. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to annotate an image with how well that image matched a search criteria so that better results can be returned for future results.

33. **Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (U.S. Patent No. 6,757,684) in view of McIntyre et al. (U.S. Patent Publ. No. 2004/0201709).**

34. Regarding *claim 14*, as mentioned above in the discussion of claim 3, Svendsen discloses all of the limitations of the parent claim. Svendsen however, fails to explicitly disclose that the

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process of automatically annotating an image consists of one of the options disclosed in the claim. McIntyre, on the other hand, discloses that it was well known in the art at the time the invention was made to use facial recognition techniques to identify a specific person in the image and to annotate the image with an identifier for the person. More specifically, in paragraph 0057 McIntyre discloses the use of facial recognition software for attaching the name or face of a user (as metadata) to an image file. In this manner the system operates to automatically forward the images to an end location based on the appended metadata obtained from the facial recognition software. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use facial recognition software to attach an identifier of the subject so that it can be automatically classified or forwarded.

35. **Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (U.S. Patent No. 6,757,684) in view of Madrane (U.S. Patent No. 6,573,907).**

36. Regarding claim 15, as mentioned above in the discussion of claim 4, Svendsen discloses all of the limitations of the parent claim. However, Svendsen fails to specifically disclose the process of annotating the image with usage statistics comprises at least one of the processes listed in the claim. Madrane on the other hand, discloses that it is well known in the art to annotate an image with a number of times that it has been requested. As mentioned in column 52, lines 38-44, Madrane does this so that images that have not been downloaded much are eventually removed from the memory. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to annotate the image with a number of times that it has

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been requested so that it may be removed from memory if it has not been requested recently, thereby conserving memory.

*Allowable Subject Matter*

37. Claims 17 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

38. The following is a statement of reasons for the indication of allowable subject matter:

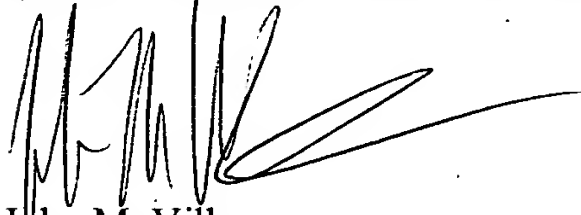
Regarding claims 17 and 45, the primary reason for allowance is that the prior art fails to teach or reasonably suggest that the process action of annotating the image with metadata associated with the same image located in a different location further comprises the process actions of locating the same image as said image in other locations, extracting all annotation data from said same image in said other locations, and annotating said image with said annotation data extracted from said image in said other location.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Villecco whose telephone number is (571) 272-7319. The examiner can normally be reached on Monday-Friday.

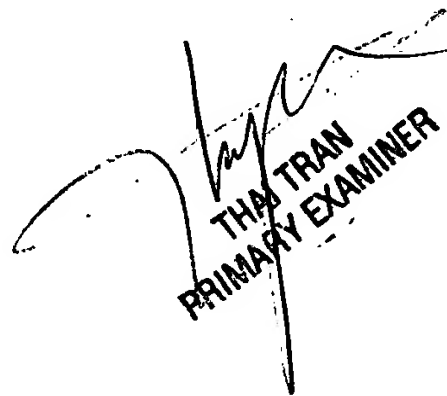
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (571) 272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John M. Villecco  
July 6, 2005



THA TRAN  
PRIMARY EXAMINER